

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

In re:

OTR MEDIA GROUP, INC.

Debtor

X  
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X

Chapter 11

Case No. 11-47385 (ESS)

**NOTICE OF MOTION BY JANJAN REALTY FOR RELIEF FROM THE AUTOMATIC  
STAY PURSUANT TO SECTION 362 OF THE BANKRUPTCY CODE AND FOR  
RELATED RELIEF, INCLUDING DISMISSAL OF THE DEBTOR'S CHAPTER 11  
CASE**

**PLEASE TAKE NOTICE** that, Janjan Realty Corp. (the "Movant") hereby moves for the entry of an order pursuant to Section 362 of the Bankruptcy Code modifying the automatic stay to permit the Movant to exercise its state law remedies against the Debtor and for related relief, including dismissal of the Debtor's chapter 11 bankruptcy case and for such other and further relief as this Court may deem just and proper (the "Motion").

**PLEASE TAKE FURTHER NOTICE** that a hearing to consider the Motion will be held before the Honorable Elizabeth S. Stong, United States Bankruptcy Judge, in Courtroom No. 3585 of the United States Bankruptcy Court for the Eastern District of New York (the "Bankruptcy Court"), Conrad B. Duberstein U.S. Courthouse, 271-C Cadman Plaza East, Brooklyn, NY 11201-1800, on October 22, 2013 at 10:00 a.m. (ET).

**PLEASE TAKE FURTHER NOTICE** that any responses or objections to the Motion must be in writing, conform to the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and the Local Rules for the United States Bankruptcy Court for the Eastern District of New York (the "Local Rules"); must be filed with the Bankruptcy Court electronically by registered users of the Bankruptcy Court's case filing system (the User's Manual for the

Electronic Case Filing System can be found at [www.nysb.uscourts.gov](http://www.nysb.uscourts.gov), the official website for the Bankruptcy Court) and, by all other parties in interest, on a 3.5 inch disk, in text-searchable Portable Document Format (PDF), Wordperfect or any other Windows-based word processing format (in either case, with a hard-copy delivered directly to Chambers), and must be served upon (i) attorney for the Movant, Joseph A. Altman, P.C., 951 Bruckner Blvd., Bronx, New York 10459 (Attention: Joseph A. Altman) and (ii) the parties in interest who have requested notice pursuant to Bankruptcy Rule 2002 and the Local Rules, so as to be actually received not later than October 15, 2013 at 4:00 p.m. (ET). Only those responses that are timely filed, served and received will be considered at the hearing.

Only those responses that are timely filed, served and received will be considered at the hearing.

Failure to file a timely objection may result in entry of an order granting the Motion.

Dated: October 1, 2013  
Bronx, New York

**Joseph A. Altman, P.C.**

By: /s/ Joseph A. Altman  
Joseph A. Altman  
951 Bruckner Blvd.  
Bronx, New York 10459  
Phone: 718-328-0422

Counsel for Janjan Realty Corp.

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

In re:

OTR MEDIA GROUP, INC.

Debtor

X  
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X

Chapter 11

Case No. 11-47385 (ESS)

**MOTION BY JANJAN REALTY FOR RELIEF FROM THE AUTOMATIC STAY  
PURSUANT TO SECTION 362 OF THE BANKRUPTCY CODE AND FOR RELATED  
RELIEF, INCLUDING DISMISSAL OF THE DEBTOR'S CHAPTER 11 CASE**

Janjan Realty Corp. (the "Movant" or "Landlord") hereby moves for the entry of an order pursuant to Section 362 of the Bankruptcy Code modifying the automatic stay to permit the Landlord to exercise its state law remedies against the Debtor and for related relief, including dismissal of the Debtor's chapter 11 bankruptcy case and for such other and further relief as this Court may deem just and proper (the "Motion") and in support respectfully represents as follows:

1. At the hearing before the Honorable Court on September 20, 2013, the Honorable Court instructed the Debtor to co-operate with the Landlord regarding stay relief. Yet, the Debtor has been anything but co-operative. Accordingly, the Landlord is now forced to waste the Honorable Court's time and present this Motion.

2. The Landlord is the owner of premises located at 207 Dyckman Street, NY, NY and 209 Dyckman Street, NY, NY. In its plan and disclosure statement - which is nothing but a plan of hopes and dreams - the Debtor has continuously maintained that it holds the lease to place signs at said locations. Copies of said leases are annexed hereto as Exhibit 1. These leases are for hanging of signs at the said premises. Each lease calls for rent at the rate of \$3,600/per annum payable in quarterly installments.

3. Each lease in paragraph 13 thereof requires the Debtor "to make payment on and address all issues related to "violations issued on the [premises] related to hanging or installation of advertising signs". It is not news to the Honorable Court that the Debtor has been violating various applicable NYC laws related to signs. This harm has now come on the Landlord as NYC has fined (and continues to fine) and obtained payment from the Landlord in an amount equal to approximately \$55,000 (which amounts continue to grow) because of the Debtor's willful disregard of the law. When asked to remove the sign, the Debtor's counsel has responded with correspondence that any attempt by the Landlord to comply with the law would be a violation of the automatic stay.

4. Copies of fines imposed upon the Landlord as a result of the Debtor's willful violation of the law and proof of payment are annexed hereto as Exhibit 2. The NYC violations, imposition of fines upon and the payments by the Landlord all took place post-petition; accordingly, prompt performance by the Debtor cannot be excused. Additional violations issued by NYC are annexed hereto as Exhibit 3.

5. The Debtor must (a) pay promptly to the Landlord the fines it has incurred to NYC and (b) immediately remove sign that violate regulatory laws and are a health and safety violation. Absent that, the Landlord should be granted stay relief. In the disclosure statement on page 52, the Debtor has indicated its desire to perhaps not keep at least one of the two locations. The reality is that the Debtor has been willful in that it has not complied with the Lease, applicable law and likely does not have any resources to cure and such post-petition defaults under the lease and comply with the law.

6. Since the Debtor is in non-compliance with regulatory and health and safety laws and the lease, the Debtor's conduct should not be sanctioned.

7. As a result, it is proper that the Landlord should be granted lift stay relief. In addition, the Honorable Court should deny confirmation of the Debtor's plan and/or dismiss or convert the instant bankruptcy case.

**WHEREFORE**, the Landlord respectfully requests the entry of an order modifying the automatic stay to permit the Landlord to exercise its state law remedies against the Debtor and for related relief, including dismissal of the Debtor's chapter 11 bankruptcy case and for such other and further relief as this Court may deem just and proper.

Dated: October 1, 2013  
Bronx, New York

**Joseph A. Altman, P.C.**

By: /s/ Joseph A. Altman  
Joseph A. Altman  
951 Bruckner Blvd.  
Bronx, New York 10459  
Phone: 718-328-0422

Counsel for Janjan Realty Corp.

EXHIBIT 1

Lease # 10172

media

LEASE AGREEMENT

This Lease Agreement ("Lease") is made this 29<sup>th</sup> Day of October, 2007 by and between Janjan Realty Corp, a New York Corporation having their principal address at 88-21 53 Avenue, Elmhurst, NY, 11373 ("Lessor") and Splash Media Group, LLC, having its principal address at 424 West 33<sup>rd</sup> Street, New York, N.Y. 10001 ("Lessee").

WHEREAS, Lessor owns or controls a building/property at 209 Dyckman Street, Block # 2233 Lot # 58, in the City/County of New York ("Property"), and Lessee desires to use a portion of the Property for advertising purposes.

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) in hand paid, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

- 1) Lease and Premises- Lessor hereby grants to Lessee the exclusive right to the building for signs and to use that portion of the Property consisting of all of the north west wall ("Premises") for the purpose of installing and maintaining thereon outdoor advertising displays, including necessary supporting structures, devices, illumination facilities and connections, service ladders and other appurtenances, with free access at all hours to and upon the same ("Sign") at Lessee's expense in accordance with the terms of this Lease.
- 2) Term- The Term ("Term") of this Lease Agreement shall be for ten (10) years and shall commence on December 1, 2007 and ending November 30, 2017 ("Commencement Date"). Notwithstanding the Commencement Date, from and after the date of this Lease, Lessee shall have the use of the Premises through the Commencement Date in order to prepare for occupancy. Lessee shall have the option to terminate this Lease on notice to Lessor.
- 3) Lessee Payments- Commencing on the Commencement Date through the end of the Term of this Lease, Lessee shall pay Lessor at an annual rate of three thousand six hundred dollars (\$3,600) payable in equal quarterly installments ("Rent").
- 4) Electricity- If Lessee elects to illuminate the Sign, it shall install, at its sole cost and expense, an electric submeter and riser to provide electricity to the Sign or make other arrangements with Lessor.
- 5) Ownership- Lessee shall remain the owner of all Signs and shall have the right to remove said Signs at any time during the Term of this Lease and shall remove the sign within 30 days after the expiration of this Lease.
- 6) Damage to Premises- If Lessee causes any damage to the Premises while constructing and/or erecting and/or preparing for Occupancy or after Occupancy occurs it shall cure those damages at its own expense within fifteen (15) days from the date the Lessor notifies Lessee.
- 7) Lessor's Representations- Lessor represents that the undersigned is authorized, empowered and able to execute this Lease and that it does not violate any existing agreements.
- 8) Assignment and Subletting- Subject to prior written approval, not to be unreasonably withheld or denied and shall be deemed approved if no response is given within thirty (30) days, Lessee may assign or otherwise transfer all or any part of its interest in this Lease or in the Premises upon Lessee providing written notice to Lessor of its intention. From and after the date of the assignment of this Lease, the Lessee shall have no further obligations under this Lease.
- 9) Lessee's Indemnity- Lessee agrees to indemnify Lessor and hold the Lessor harmless from and against any and all losses, costs, expenses, and liabilities incurred by the Lessor in connection with any claim, suit or action (collectively "Claims") made against the Lessor in connection with Lessee's performance of its obligations hereunder, except to the extent such Claims result from the negligence or willful misconduct of Lessor.
- 10) Invalid Provisions- If any provision of this Lease is deemed or becomes invalid or non-enforceable by law, the remainder of this Lease shall remain in force to the fullest extent permitted by law.
- 11) Entire Agreement- This Lease constitutes the entire understanding between the parties concerning the subject matter hereof and supersedes all previous agreements, negotiations or representations, written or oral. This Lease may be modified only in writing and signed by all the parties hereto.
- 12) Lessor's Assignment- This Lease will bind and inure to the benefit of all successors, executors, heirs, and assigns. Lessor agrees that if it sells the Property, it will condition such sale on the assumption of this Lease.
- 13) Additional Comments- Beginning in the sixth year of this Lease, this Rental shall increase to four thousand eight hundred dollars (\$4,800). Lessee shall provide Lessor with a certificate of insurance, naming Lessor as additional insured. Lessee shall not display any advertising of lewd or pornographic nature. Lessee shall be responsible for any violations issued on the Property relating to the hanging or installation of the advertising sign.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the day and year first written above.

Lessor: Janjan Realty Corp

Lessee: Splash Media Group, LLC

By: Vincent Wong  
Name, Title: VINCENT WONG  
Date: VICZ PRESIDENT  
10/29/2007

By: [Signature]  
Name, Title: Ken E. [Signature] President  
Date: 10/29/07

Lease # 10173

media

LEASE AGREEMENT

This Lease Agreement ("Lease") is made this 2nd Day of October, 2007 by and between Janjan Realty Corp, a New York Corporation having their/its principal address at 88-21 53<sup>rd</sup> Avenue, Elmhurst, NY, 11373 ("Lessor") and Splash Media Group, LLC, having its principal address at 424 West 33<sup>rd</sup> Street, New York, N.Y. 10001 ("Lessee").

WHEREAS, Lessor owns or controls a building/property at 207 Dyckman Street, Block # 2233 Lot # 56, in the City/County of New York ("Property"), and Lessee desires to use a portion of the Property for advertising purposes.

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) in hand paid, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

- 1) Lease and Premises- Lessor hereby grants to Lessee the exclusive right to the building for signs and to use that portion of the Property consisting of all of the south east wall ("Premises") for the purpose of installing and maintaining thereon outdoor advertising displays, including necessary supporting structures, devices, illumination facilities and connections, service ladders and other appurtenances, with free access at all hours to and upon the same ("Sign") at Lessee's expense in accordance with the terms of this Lease.
- 2) Term- The Term ("Term") of this Lease Agreement shall be for ten (10) years and shall commence on December 1, 2007 and ending November 30, 2017 ("Commencement Date"). Notwithstanding the Commencement Date, from and after the date of this Lease, Lessee shall have the use of the Premises through the Commencement Date in order to prepare for occupancy. Lessee shall have the option to terminate this Lease on notice to Lessor.
- 3) Lessee Payments- Commencing on the Commencement Date through the end of the Term of this Lease, Lessee shall pay Lessor at an annual rate of three thousand six hundred dollars (\$3,600) payable in equal quarterly installments ("Rent").
- 4) Electricity- If Lessee elects to illuminate the Sign, it shall install, at its sole cost and expense, an electric submeter and riser to provide electricity to the Sign or make other arrangements with Lessor.
- 5) Ownership- Lessee shall remain the owner of all Signs and shall have the right to remove said Signs at any time during the Term of this Lease and shall remove the sign within 30 days after the expiration of this Lease.
- 6) Damage to Premises- If Lessee causes any damage to the Premises while constructing and/or erecting and/or preparing for Occupancy or after Occupancy occurs it shall cure those damages at its own expense within fifteen (15) days from the date the Lessor notifies Lessee.
- 7) Lessor's Representations- Lessor represents that the undersigned is authorized, empowered and able to execute this Lease and that it does not violate any existing agreements.
- 8) Assignment and Subletting- Subject to prior written approval, not to be unreasonably withheld or denied and shall be deemed approved if no response is given within thirty (30) days, Lessee may assign or otherwise transfer all or any part of its interest in this Lease or in the Premises upon Lessee providing written notice to Lessor of its intention. From and after the date of the assignment of this Lease, the Lessee shall have no further obligations under this Lease.
- 9) Lessee's Indemnity- Lessee agrees to indemnify Lessor and hold the Lessor harmless from and against any and all losses, costs, expenses, and liabilities incurred by the Lessor in connection with any claim, suit or action (collectively "Claims") made against the Lessor in connection with Lessee's performance of its obligations hereunder, except to the extent such Claims result from the negligence or willful misconduct of Lessor.
- 10) Invalid Provisions- If any provision of this Lease is deemed or becomes invalid or non-enforceable by law, the remainder of this Lease shall remain in force to the fullest extent permitted by law.
- 11) Entire Agreement- This Lease constitutes the entire understanding between the parties concerning the subject matter hereof and supersedes all previous agreements, negotiations or representations, written or oral. This Lease may be modified only in writing and signed by all the parties hereto.
- 12) Lessor's Assignment- This Lease will bind and inure to the benefit of all successors, executors, heirs, and assigns. Lessor agrees that if it sells the Property, it will condition such sale on the assumption of this Lease.
- 13) Additional Comments- Beginning in the sixth year of this Lease, this Rental shall increase to four thousand eight hundred dollars (\$4,800). Lessee shall provide Lessor with a certificate of insurance, naming Lessor as additional insured. Lessee shall not display any advertising of lewd or pornographic nature. Lessee shall be responsible for any violations issued on the Property relating to the hanging or installation of the advertising sign.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the day and year first written above.

Lessor: Janjan Realty Corp

Lessee: Splash Media Group, LLC

By: [Signature]

By: [Signature]

Name, Title: Vincent W. [Signature]

Name, Title: Lei. [Signature], President

Date: 10/24/2007

Date: 10/24/2007

EXHIBIT 2

City of New York  
Environmental Control Board  
66 John St., 10th Floor  
New York, NY 10038



Transaction #: 138207  
Date: 8/16/2013 Time: 2:26:51 PM  
Cashier: PM Register #: 1

Item	Description	Amount
34983526X	Buildings - 34983	\$5,000.00
34983528J	Buildings - 34983	\$5,000.00
34983530Z	Buildings - 34983	\$5,000.00
34983532M	Buildings - 34983	\$5,000.00
34983534K	Buildings - 34983	\$5,000.00
34983535H	Buildings - 34983	\$5,000.00

Sub Total \$30,000.00  
Total \$30,000.00  
Check Tendered \$30,000.00  
Change Due \$0.00



\*138207\*  
Thank you  
City of New York

City of New York  
Environmental Control Board  
66 John St., 10th Floor  
New York, NY 10038



Transaction #: 138206  
Date: 8/16/2013 Time: 2:25:24 PM  
Cashier: PM Register #: 1

Item	Description	Amount
34983483P	Buildings - 34983	\$5,000.00
34983485Z	Buildings - 34983	\$5,000.00
34983487H	Buildings - 34983	\$5,000.00
34983489X	Buildings - 34983	\$5,000.00
34983491P	Buildings - 34983	\$5,000.00

Sub Total \$25,000.00  
Total \$25,000.00  
Check Tendered \$25,000.00  
Change Due \$0.00



\*138206\*  
Thank you  
City of New York



THE CITY OF NEW YORK  
ENVIRONMENTAL CONTROL BOARD

HEARING LOCATION:  
Environmental Control Board  
66 John Street  
10th Floor  
New York, NY 10038  
(212) 569-6270



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Method of Appearance  
Live Hearing

DECISION AND ORDER  
Violation #: 034983483P et al. (5 NOV's)  
Hearing Date: July 19, 2013

To: COHEN HOCHMAN & ALLEN  
80 MAIDEN LANE  
SUITE 307  
NEW YORK, NY 10038

City of New York v. HOWARD WONG

Total Civil Penalty: \$25,000.00

5 Notices of Violation NOV(s) was/were issued to the Respondent. On the record before me, and upon the Further Findings of Fact/Conclusions of Law stated below, I find as follows and, where applicable, order payment and compliance:

NOV: 034983483P

PLACE OF OCCURRENCE: 207 DYCKMAN STREET MANHATTAN

DATE OF OCCURRENCE: 06-25-2012

ISSUING OFFICER AGENCY: 1983 DOB

ECB CODE: B160

CHARGE: AC 28-105.1

DISPOSITION: IN VIOLATION

CIVIL PENALTY IMPOSED:

\$5,000.00

NOV: 034983485Z

PLACE OF OCCURRENCE: 207 DYCKMAN STREET MANHATTAN

DATE OF OCCURRENCE: 06-25-2012

ISSUING OFFICER AGENCY: 1983 DOB

ECB CODE: B163

CHARGE: ZR 32-63

DISPOSITION: IN VIOLATION

CIVIL PENALTY IMPOSED:

\$5,000.00

NOV: 034983487M

PLACE OF OCCURRENCE: 207 DYCKMAN STREET MANHATTAN

DATE OF OCCURRENCE: 06-25-2012

ISSUING OFFICER AGENCY: 1983 DOB

ECB CODE: B162

CHARGE: AC 28-502.6

DISPOSITION: IN VIOLATION

CIVIL PENALTY IMPOSED:

\$5,000.00

NOV: 034983489N

PLACE OF OCCURRENCE: 207 DYCKMAN STREET MANHATTAN

DATE OF OCCURRENCE: 06-25-2012

ISSUING OFFICER AGENCY: 1983 DOB

ECB CODE: B162

CHARGE: AC 28-502.6

DISPOSITION: IN VIOLATION

CIVIL PENALTY IMPOSED:

\$5,000.00

NOV: 034983491P

PLACE OF OCCURRENCE: 207 DYCKMAN STREET MANHATTAN

DATE OF OCCURRENCE: 06-25-2012

ISSUING OFFICER AGENCY: 1983 DOB

ECB CODE: B162

CHARGE: AC 28-502.6

DISPOSITION: IN VIOLATION

CIVIL PENALTY IMPOSED:

\$5,000.00

FURTHER FINDINGS OF FACT/CONCLUSIONS OF LAW:

NOV: 034983483P AC 28-105.1 NOV: 034983485Z ZR 32-63 NOV: 034983487M AC 28-502.6

NOV: 034983489N AC 28-502.6 NOV: 034983491P AC 28-502.6

Lindsay Garroway, Esq. appeared with Howard Wong, the named respondent. Alex Berger appeared on behalf of the petitioner. Joe Cashino observed. The process server did not appear. All parties agreed to go forward without the presence of the process server.

The petitioner submitted three photos of the sign, Yantec.com (See petitioner's exhibit 1-2).

Mr. Wong testified that the service was made to his home. He lives there with his wife and never has house guests. The process server described John Doe on the affidavit of service as 150-160lbs and over 65 years old. He was 5'9" and not as thin as described. He denied

New York City Environmental Control Board

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ever speaking to the process server. He received the Notice attached to the door.

Additionally, he testified that JanJan Realty is the owner of the property and he is president of the organization. He does the paperwork in the office. His brother, Vincent is vice president and on-site manager dealing with all issues at the building. He had no knowledge of the sign until he received the Notice of Violation (NOV). The respondent submitted a deed to the property showing JanJan as the owner of the property (See, respondent's exhibit A).

A lease agreement was submitted between the unregistered OAC Splash Media and Vincent Wong (See, Respondent's exhibit B). Also submitted is a Chapter 11 motion against OTR Media Group, Inc. which includes this property (See, respondent's exhibit C). The respondent argues it is disingenuous for the city not to allow the Rule 49 exemption with Splash who works with OTR Media and also hold OTR Media responsible for these properties.

The petitioner noted that Splash and OTR Media were once working together. At the time of the issuance of these NOVs, Splash was not a registered OAC.

Mrs. Carroway argued that the respondent was improperly personally named since JanJan Realty is the owner (See, respondent's exhibit C memo and petitioner's 23-response memo).

Further, she submitted documents to show Peter Merk removed the sign. OTR engaged Mr. Merk to install the signs and under the CBS case, the property owner should not be responsible even though Mr. Merk was not a professional licensed sign hanger (See, respondent's exhibit D).

Evidence of timely removal was submitted in a hearing on ECT#11992661 (See, respondent's exhibits E-G later incorporated as per consent of parties).

The process server described John Doe as male, yellow skinned, 5'8", 55 years and 131-160lbs, prior to attaching the NOV, which was received by the respondent. I credit the affidavit of service and find the respondent fails to credibly show the person described was not the respondent or someone at the home at the time. Accordingly, the respondent's motion to dismiss for defective service is denied.


I find the respondent was properly named. The respondent is the president of the company which owns and manages the property, Mr. Howard Wong may predominantly do bills, etc. for the property but I do not credit the testimony that he is not aware of the signs. Further, as president of the company, he has control of the property.

With respect to the 11 cases, the respondent fails to show the respondent was improperly named. The evidence presented failed to show a licensed sign hanger installed the sign and attached the deed. The 11 sections references licensed sign hangers, not just any sign hanger. I do not find under the CBS case that the rebuttal evidence supplied is sufficient to show another party should have been named. The fact the respondent is a property owner and not the media company is not dispositive. Additionally, it is unclear whether Mr. Merk installed or just removed the sign.

Board of Appeals decisions make it clear that when a property owner leases space for the purpose of placing a sign on the outside of the building available for advertising purposes, they become an outdoor advertising company as defined in Code Section 28-502.1, Sec. NYC v. Callen, LC U Appeal #002071, 8/18/09, NYC v. Maou v. BCB Appeal #0900123, 8/20/09. Therefore, the respondent as property owner is an OAC and responsible for the violations issued to them as well as the OAC media company.

I find that Splash media was not a registered OAC. Where I have found OAC's with OTR in the name establishes the Rule 49 exemption. I do not find that Splash media and OTR Media are the same company. Splash had a registration number which was different than OTR Media. Splash Media failed to renew the registration. The property owner as an OAC is required to have a lease with a registered OAC to be exempt from the registration. Therefore, I find the Rule 49 exemption is not applicable.

Accordingly, I find the respondent in violation of all charges. I credit the evidence of timely removal and impose a Board approved mitigated penalty to all NOVs.

TOTAL CIVIL PENALTY: \$25,000.00	
JUL 30 2013	
	07/26/2013
Sincer Selden, Administrative Law Judge	Date

PAYMENT DUE WITHIN TEN (10) DAYS  
READ BACK OF THIS ORDER PROTECT YOUR RIGHTS